

Remarks

I. Status of Claims

Claims 15-16 and 18-27 are pending in the application. Claim 15 is the only independent claim and currently amended. Claims 1-14 and 17 were previously canceled. The Applicant believes that no new matter is added.

Claim 15 and 25-26 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Takabayashi (US 4,741,978) ("Takabayashi").

Claims 15 and 25 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Takabayashi in view of Takatoshi et al (EP 1 235 340) ("Takatoshi") as in the IDS.

Claims 15-16, 18, 20, 21, 23, 26, and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nonobe et al. (USPUB 2002/0094467 ("Nonobe") in view of Takatoshi as in the IDS.

Claims 19, 20, and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nonobe in view of Takatoshi, as applied to claims 15, 17, and 18 above, and in further view of Ferguson et al. (USP 6,463,949) ("Ferguson").

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. Entry of After-final Amendment

The Applicant respectfully submits that, based on a review of the remarks on page 9 of the Office Action (the first full paragraph and the paragraph bridging pages 9-10), the Examiner appears to have already considered the additional claim language of the invention of claim 15. Therefore, it is respectfully submitted that the after-final amendment should be entered because it does not raise a new issue(s) requiring further search and/or consideration and this application allowed (at least for the reasons set forth herein below).

III. Pending Claims

Independent claim 15, the only independent claim, stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Takabayashi and under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Takabayashi in view of Takatoshi. Also, claims 15 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nonobe in view of Takatoshi.

The Applicant respectfully submits that claim 15 is patentable over the cited references at least because it recites, *inter alia*, “...an abnormality determining portion *which counts the number of the detected abnormalities, regardless of type, compares the number of the detected abnormalities with a predetermined number of times, and determines that an abnormality has occurred in the supply system when the number of the detected abnormalities reaches the predetermined number of times.*” (emphasis added)

Certain embodiments of the present invention, for example, the invention of claim 15, utilize an abnormality determining portion to count the number of detected abnormalities that have occurred in the supply system in a predetermined time period, then compare the number of the detected abnormalities with a predetermined number, which is set. Utilizing this abnormality determining portion, it is possible to determine whether the abnormality is in the motor or in the supply system. Thus, erroneous determinations can be minimized (See paragraph [0009] of the current application).

In contrast, Takabayashi describes “when an abnormality occurs in the control section or an abnormality is received by the control section, the coil is excited to open a contact means 23b” in column 3, lines 19-25. That said, as pointed out in the last response, because the present invention *counts the number of detected abnormalities* and compares them with a predetermined number—where Takabayashi opens a contact means after *a single abnormality*, regardless of the location where the abnormality has occurred or determining whether it is an erroneous or not—thus, Takabayashi and the invention of claim 15 are different. The Examiner appears to agree with the Applicant’s contentions on page 9 of the Office Action, where in the “Response to Arguments” section it is stated that:

“Examiner notes that in the arguments provided on Page 7 of the applicant’s remarks, the language used to refute the Takabayashi reference is narrower than in the claims; specifically looking at the underlined portions referring to

the applicant's device 'counting the number of abnormalities.' *Examiner agrees* with the applicant that Takabayashi does not discuss a counting of abnormalities to minimize erroneous abnormality determinations; however, this limitation is contained in the claims." (emphasis added)

See first full paragraph on Page 9.

The final Office Action, on page 4, alleges that Nonobe, in paragraphs 72-73, teaches such a detecting portion. However, it is respectfully submitted that the portions (i.e., paragraphs 72-73) of Nonobe relied upon in the Office Action do not teach or even remotely suggest the abnormality determining portion recited.

Accordingly, Takabayashi and Nonobe do not disclose *each and every limitation* of claim 15, and the Applicant respectfully submits that, for at least the above-identified reasons, the rejection under § 102(b) should be withdrawn. "A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Also, none of the other cited references address the deficiencies of Takabayashi and Nonobe. As discussed in MPEP 2143.01, obviousness can *only* be established by combining or modifying the *teachings of the prior art* to produce the claimed invention where there is some *teaching, suggestion, or motivation* to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006) (discussing rationale underlying the motivation-suggestion-teaching **test** as a guard against using hindsight in an obviousness analysis).

Further, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the Applicant respectfully submit that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements and it is not proper under 35 U.S.C. § 103 to use the Applicant's application as a blueprint to pick and choose unrelated features to reproduce, in hindsight, Applicant's invention.

Therefore, for at least these reasons, claim 15 and its dependent claims are patentable over the cited references.

IV. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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